

REMARKS

The Applicants wish to thank the Examiner for his examination of the present application and for the Examiner's interview of February 5. Claims 45 and 64 have been cancelled, claims 96-110 have been added, and claims 26-30, 32-37, 39, 41-44, 48, 50, 52, 53, 57, 61, 62, 67-79, 81 and 82 have been amended. Claims 26-39, 41-44, 48-58, 60-63, and 67-110 are currently pending. Claims 26 and 48 have been amended, in part, to include that the first component has a surface for engaging a "substantially uncut" joint surface so as to overcome U.S. Patent 6,0007,537 (Burkinshaw et al., hereinafter Burkinshaw), as discussed during the interview of February 5, 2007. Claim 26 (and accordingly, various dependent claims) have been broadened by changing the limitation "a mold having a surface" to "a first component having a surface." Additional claim amendments include: those suggested by the Examiner during the interview of February 5 to further clarify the claims; and amendments to address other informalities. No new matter has been added.

As discussed at the Examiner's interview of February 5, Applicants respectfully request that the PTO Form 1449 submitted with the Information Disclosure Statement dated February 27, 2007, be initialed and signed.

35 U.S.C. §102

Claims 26-45 and 48-66 stand rejected under 35 U.S.C. § 102 as being anticipated by Burkinshaw. Amended claim 26 is directed to a tool for surgery of a joint that includes, in part, a first component having a surface for engaging a *substantially uncut* joint surface, the surface of the first component conforming to the joint surface. A block communicates with the first component. At least one guide in the block directs a surgical instrument, wherein the shape and/or position of at least one of the block and the guide is referenced to, at least in part, one or more anatomical or biomechanical axes associated with said joint.

Burkinshaw discloses a nested cutting block 10 that engages a cut joint surface (see Burkinshaw at Fig. 1 and col. 5, lines 18). This is very different from amended claim 26, which reflects a first component having a surface for engaging a substantially

uncut joint surface, with the surface of the first component conforming to the joint surface.

Additionally, nowhere does Burkinshaw teach or suggest that at least one of the block and the guide is referenced to, at least in part, one or more anatomical or biomechanical axes associated with said joint, as required by claim 26, as amended. Thus, unlike Burkinshaw, amended claim 26 facilitates preparing the surface of a joint so as to achieve optimal mechanical and anatomical axis alignment (as described in the published specification at, for example, paragraph [0312]).

Since Burkinshaw fails to teach or suggest: a first component having a surface for engaging a substantially uncut joint surface, with the surface of the first component conforming to the joint surface; and at least one of the block and the guide is referenced to, at least in part, one or more anatomical or biomechanical axes associated with said joint, as required by claim 26, as amended, amended claim 26 is allowable over Burkinshaw. Dependent claims 27-39, 41-44 and 67-79 (dependent claims 40 and 45 are cancelled) are allowable for the same reason as claim 26, and are further allowable in view of the additional limitations set forth therein.

Amended claim 48 includes: a mold having a surface for engaging a substantially uncut joint surface, the surface conforming to the joint surface; and at least one guide in the block, the guide for directing a surgical instrument, wherein the shape and/or position of at least one of the block and the guide is referenced to at least in part, one or more anatomic or biomechanical axes associated to said joint. Accordingly, amended claim 48, and dependent claims 49-58, 60-63 and 80-95 (dependent claims 59, 64, 65 and 66 are cancelled) are allowable over Burkinshaw for the same reason as claim 26, and are further allowable in view of the additional limitations set forth therein.

It is believed that the application is in condition for allowance. Consideration of the application and issuance of a notice of allowance are respectfully requested.

Applicant believes that no extension of time is required; however, this conditional petition is being made to provide for the possibility that the applicant has inadvertently overlooked the need for an extension of time. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972.

The Applicant requests that the undersigned, Alexander J. Smolenski, Jr., be contacted if it will assist further examination of this application.

Respectfully submitted,

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